

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE TRUSTEES OF COLUMBIA
UNIVERSITY IN THE CITY OF NEW YORK,

Plaintiff,

v.

ENCYCLOPAEDIA IRANICA
FOUNDATION,

Defendant.

No. 19 Civ. 7465 (AT)(KNF)

ENCYCLOPAEDIA IRANICA
FOUNDATION, INC.,

Plaintiff,

v.

THE TRUSTEES OF COLUMBIA
UNIVERSITY IN THE CITY OF NEW YORK,
ELTON DANIEL AND BRILL USA, INC.,

Defendants.

No. 19 Civ. 8562 (AT)(KNF)

**CIVIL CASE
MANAGEMENT PLAN AND
SCHEDULING ORDER**

KEVIN N. FOX, United States Magistrate Judge:

This Civil Case Management Plan (the “Plan”) is submitted by the parties in accordance with Federal Rule of Civil Procedure 26(f)(3).

1. All parties do not consent to conducting all further proceedings before a magistrate judge, including motions and trial. 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences.
2. This case is to be tried to a jury.
3. Except as otherwise provided herein, amended pleadings may not be filed and additional parties (other than necessary parties) may not be joined except with leave of the Court or with consent of the parties. Should EIF refuse to consent to Columbia’s request to amend, Columbia may file a motion for leave to amend its First Amended Complaint no later than **February 26, 2021**. EIF shall answer Columbia’s Second Amended Complaint or file a motion to dismiss within the later of (i) 30 days after the filing of Columbia’s Second

Amended Complaint; or (ii) within seven days after the parties, EIF and Columbia, both agree or the Court has determined that the third-party inventory has been completed.

4. EIF shall file its amended complaint within seven days after the parties, EIF and Columbia, both agree or the Court has determined that the third-party inventory has been completed. Columbia, Daniel and Brill USA Inc., if named in the Amended Complaint, shall answer EIF's Amended Complaint or move to dismiss within 30 days of filing. In the event that EIF's Amended Complaint adds a new party, the parties shall meet and confer regarding a discovery schedule for the newly added parties, provided that fact discovery for all parties is completed by the date set forth in paragraph 5.
5. In light of the fact that this case presents unique complexities and other exceptional circumstances, all fact discovery shall be completed no later than **October 1, 2021**, or 180 days after completion of the inventory (currently anticipated to be completed by April 1, 2021), whichever is later.
6. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by the date set forth in paragraph 5 above:
 - a. Initial requests for production of documents to be served by **February 12, 2021**.
 - b. Initial search terms for electronically-searchable information (ESI) to be exchanged by **February 26, 2021**. If the parties cannot agree on final ESI search terms, then by **March 12, 2021**, each party shall notify Magistrate Judge Fox of the custodians, search terms, or other parameters it has requested of the other party which the other party refuses to apply in its ESI search, together with an explanation of why such terms are reasonably calculated to lead to discoverable material. By **March 19, 2021**, the other party shall submit to Magistrate Judge Fox an explanation of why such parameters should not be required.
 - c. Interrogatories to be served by **45 days before the close of fact discovery**.
 - d. Depositions to be completed by **the close of fact discovery**.
 - e. Requests to Admit to be served no later than **45 days before the close of fact discovery**.
7.
 - a. All expert discovery shall be completed no later than **90 days after the close of fact discovery**.
 - b. No later than thirty (30) days prior to the date in paragraph 5, i.e. the completion of all fact discovery, the parties shall meet and confer on a schedule for expert disclosures, including reports, production of underlying documents and depositions, provided that (i) expert report(s) of the party with the burden of proof

shall be due before those of the opposing party's expert(s); and (ii) all expert discovery shall be completed by the date set forth in paragraph 7(a).

8. All motions and applications shall be governed by the Court's Individual Practices, including pre-motion conference requirements, except that motions *in limine* may be made without a pre-motion conference on the schedule set forth in paragraph 11. Pursuant to the authority of Rule 16(c)(2), Fed. R. Civ. P., any motion for summary judgment will be deemed untimely unless a request for a pre-motion conference is made in writing within fourteen (14) days of the date in paragraph 5, i.e., the close of fact discovery.
9. All counsel must meet face-to-face or video conference for at least one hour to discuss settlement within fourteen (14) days following the close of fact discovery.
10. The parties agree that within 14 days after entry of this Order, the parties will meet and confer to discuss settlement, including the possibility of private mediation. The scheduling of mediation shall not interfere with any scheduling order of the Court.
11. The Final Pretrial Submission Date is thirty (30) days following the close of fact and expert discovery (whichever is later). By the Final Pretrial Submission Date, the parties shall submit a Joint Pretrial Order prepared in accordance with the District Court's Individual Practices and Rule 26(a)(3), Fed. R. Civ. P. Any motions *in limine* shall be filed after the close of discovery and before the Final Pretrial Submission Date and the pre-motion conference requirement is waived for any such motion. If this action is to be tried before a jury, proposed *voir dire* questions, jury instructions and verdict form shall also be filed by the Final Pretrial Submission Date. Counsel are required to meet and confer on a joint submission of proposed jury instructions and verdict form, noting any points of disagreement in the joint submission. Jury instructions may not be submitted after the Final Pretrial Submission Date, unless they meet the standard of Rule 51(a)(2)(A), Fed. R. Civ. P. If this action is to be tried to the Court, proposed findings of fact and conclusions of law should be submitted by the Final Pretrial Submission Date.
12. Counsel for the parties have conferred and their present best estimate of the length of trial is 5 days.

TO BE COMPLETED BY THE COURT:

The Plan has been reviewed by the Court and, except as modified, is adopted as the Scheduling Order of this Court in accordance with Rule 16(b), Fed. R. Civ. P.

13. [Other]
14. The next Case Management Conference is scheduled for _____ at _____.
15. The parties are directed to file a joint status report not later than one week in advance of

the Case Management Conference. The parties should indicate whether they anticipate filing motion(s) for summary judgment and whether they believe the case should be referred to a Magistrate Judge for settlement discussions. The parties are reminded that, pursuant to paragraph 8, a pre-motion conference request for any motion for summary judgment must be made within fourteen (14) days of the close of fact discovery.

This ORDER may not be modified or the dates herein extended, except by further order of this Court for good cause shown. Any application to modify or extend the dates herein (except as noted in paragraph 6) shall be made in a written application in accordance with paragraph I.B. of the Court's Individual Practices and shall be made no less than five (5) days prior to the expiration of the date sought to be extended.

SO ORDERED.

Dated: February __, 2021
New York, New York